

RETURN DATE: February 9, 2016

ULYSES ALVAREZ : SUPERIOR COURT
VS. : WATERBURY JUDICIAL DISTRICT
CITY OF MIDDLETOWN : JANUARY 13, 2016

COMPLAINT

1. At all times material, plaintiff, Ulyses Alvarez, was and is a citizen of the State of Connecticut residing in the City of Waterbury.

2. Defendant, City of Middletown, is a municipality located in the State of Connecticut. Defendant operates a police department headquartered at 222 Main Street, Middletown, Connecticut 06457.

3. At all times material, plaintiff was an employee under the Connecticut Fair Employment Practices Act (CFEPA) C.G.S. §46a-51 *et seq.*

4. At all times material, defendant was an employer under the Connecticut Fair Employment Practices Act (CFEPA) C.G.S. §46a-51 *et seq.*

5. Defendant employed plaintiff.

6. Plaintiff was a probationary police officer.

7. Defendant hired plaintiff in November 2013.

8. Plaintiff is Hispanic.

9. Plaintiff is Puerto Rican.

10. Defendant knew that plaintiff was Hispanic.

11. Defendant knew that plaintiff was Puerto Rican.

12. Plaintiff passed defendant's background investigation.

13. Plaintiff passed defendant's polygraph examination.

14. Plaintiff passed the psychological examination.
15. Plaintiff passed the physical ability test.
16. Plaintiff passed the physical examination ascertaining the ability to perform the essential functions of a police officer including a drug screening.
17. Plaintiff attended and graduated from the Police Officer Standard's and Training Council Academy (POST).
18. Defendant's employee Thomas Ganley was at the academy while plaintiff was attending.
19. One or more individuals attending the academy used the racial slur "spic".
20. Ganley was aware that that the racial slur "spic" was being uttered at the academy.
21. An investigation was conducted concerning the use of the racial slur at the academy.
22. Ganley told plaintiff to have thick skin.
23. Ganley told plaintiff: "wait until they get you in the locker room" [the Middletown police department locker room].
24. Elias Martz is employed by defendant as a police officer.
25. Martz was one of plaintiff's field training officers (FTO).
26. Martz used the racial slur "spic" in reference to another individual's wife.
27. There were an estimated six (6) probationary officers doing field training including plaintiff.
28. Plaintiff was the only Hispanic among the six (6) probationary officers.

29. Ganly told plaintiff that he was “too clean”. This comment was in reference to plaintiff being a Puerto Rican from Waterbury, Connecticut who did not have a criminal record.

30. While plaintiff was performing his job duties, an individual (not employed by the defendant) made an accusation against the plaintiff.

31. The accusation was false.

32. Defendant asked the plaintiff about the accusation and plaintiff denied the accusation.

33. Defendant assigned Ganley to investigate the accusation.

34. Upon information and belief, a Caucasian probationary officer arrived at work under the influence of alcohol. The individual was not terminated.

35. Sergeant Brian Hubbs questioned plaintiff about his race and ethnicity and used racial and national origin derogatory language.

36. On March 4, 2015, defendant notified that he was going to be terminated on March 6, 2015.

37. Any and all excuses offered by defendant to explain the termination would be a pretext to mask unlawful race discrimination, national origin discrimination, and/or retaliation.

38. Plaintiff was effectively terminated on March 4, 2015.

39. Defendant treated plaintiff adversely different when compared to similarly situated employees outside of plaintiff’s protected class.

40. Plaintiff was qualified for the job.

41. Plaintiff performed the job at or above a satisfactory level.

42. In 2014, defendant employed approximately twenty-seven (27) non-probationary period police officers. Out of the 27 police officers, no more than two (2) were Hispanic.

43. Plaintiff was qualified for the job he held with the defendant.

44. Plaintiff performed his job at or above a satisfactory level.

45. Plaintiff successfully completed the Field Training Officer Time (FTO) on or about November 23, 2014.

46. Plaintiff is a certified police officer in the State of Connecticut until June 30, 2018.

47. On or about May 4, 2015, plaintiff filed a complaint with the Connecticut Commission on Human Rights and Opportunities (CHRO).

48. On October 30, 2015, plaintiff received a release of jurisdiction issued by the CHRO (attached hereto as Ex.1).

FIRST COUNT
(National Origin Discrimination Violation of the Connecticut Fair Employment Practices Act
C.G.S §46a-60(a)(1) *et seq.*)

1. Plaintiff repeats and re-alleges the general allegations set forth above as though fully set forth herein.

49. Defendant violated the Connecticut Fair Employment Practices Act in one or more of the following ways:

- a. In that defendant interfered with plaintiff's privilege of employment on the basis of plaintiff's national origin.
- b. In that defendant treated plaintiff differently than similarly situated employees;

- c. In that defendant discriminated against the plaintiff on the basis of national origin in such a way that it adversely affected his status as an employee;
- d. In that defendant discharged the plaintiff from employment on account of his national origin;
- e. In that defendant intentionally discriminated against the plaintiff;
- f. In that defendant negatively evaluated the plaintiff.

50. As a direct and proximate result of defendant's violation of the Connecticut Fair Employment Practices Act, plaintiff suffered damages.

51. As a direct and proximate result of defendant's unequal treatment, discrimination, and termination, plaintiff has been deprived of work and equal employment opportunities because of his national origin.

52. As a further direct and proximate result of defendant's discrimination of the plaintiff, plaintiff has been deprived of income and wages, and has been deprived of access of certain benefits to which he was entitled under defendant's employee benefits plan, and interest.

53. As a further result of defendant's discrimination, plaintiff sustained emotional pain, suffering, embarrassment, shame, inconvenience, mental anguish, loss of enjoyment of life, impairment of his personal and professional reputation, damage caused by the Plaintiff's loss of insurances and savings and investment opportunities, and other pecuniary and non-pecuniary losses.

54. Plaintiff has suffered and will continue to suffer injuries and losses as a result of defendant's wrongful and discriminatory acts.

55. The defendant exhibited ill will, malice, improper motive and/or reckless indifference to the plaintiff's civil rights.

SECOND COUNT
**(Race Discrimination Violation of the Connecticut Fair Employment Practices Act
C.G.S §46a-60(a)(1) *et seq.*)**

1. Plaintiff repeats and re-alleges the general allegations set forth above as though fully set forth herein.

56. Defendant violated the Connecticut Fair Employment Practices Act in one or more of the following ways:

- a. In that defendant interfered with plaintiff's privilege of employment on the basis of plaintiff's race;
- b. In that defendant treated plaintiff differently than similarly situated employees;
- c. In that defendant discriminated against the plaintiff on the basis of ancestry in such a way that it adversely affected his status as an employee;
- d. In that defendant discharged the plaintiff from employment on account of his race;
- e. In that defendant intentionally discriminated against the plaintiff; and
- f. In that defendant negatively evaluated the plaintiff.

57. As a direct and proximate result of defendant's violation of the Connecticut Fair Employment Practices Act, plaintiff suffered damages.

58. As a direct and proximate result of defendant's unequal treatment, discrimination, and termination, plaintiff has been deprived of work and equal employment opportunities because of his race.

59. As a further direct and proximate result of defendant's discrimination of the plaintiff, plaintiff has been deprived of income and wages, and has been deprived of access of certain benefits to which he was entitled under defendant's employee benefits plan, and interest.

60. As a further result of defendant's discrimination, plaintiff sustained emotional pain, suffering, embarrassment, shame, inconvenience, mental anguish, loss of enjoyment of life, impairment of his personal and professional reputation, damage caused by the Plaintiff's loss of insurances and savings and investment opportunities, and other pecuniary and non-pecuniary losses.

61. Plaintiff has suffered and will continue to suffer injuries and losses as a result of defendant's wrongful and discriminatory acts.

62. The defendant exhibited ill will, malice, improper motive and/or reckless indifference to the plaintiff's civil rights.

DEMAND FOR RELIEF

WHEREFORE, plaintiff prays for appropriate damages including: compensatory damages; damages for back pay, front pay, lost personal days, emotional distress; ; loss pension/retirement benefits; punitive damages; attorneys' fees; costs; interest; consequential damages; prejudgment interest; job reinstatement; for an injunction requiring the removal of any and all adverse information contained in plaintiff's personnel file; for a trial by jury; and for all other just and proper relief.

Hereof fail not but of this writ with your doings thereon make due service and return according to law.

Dated at Newington, Connecticut this 13th day of January 2016.

James V. Sabatini, Esquire
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ATTORNEY FOR PLAINTIFF

Please file our appearance
on behalf of the Plaintiff.

James V. Sabatini

STATEMENT OF AMOUNT IN DEMAND

The amount in demand is greater than \$15,000.00
exclusive of attorneys and costs.

EXHIBIT 1

STATE OF CONNECTICUT
COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES

Ulyses Alvarez
COMPLAINANT

CHRO No. 1530511

vs.

EEOC No. 16A-2015-01224

City of Middletown
RESPONDENT

RELEASE OF JURISDICTION

The Commission on Human Rights and Opportunities hereby releases its jurisdiction over the above-identified complaint. The Complainant is authorized to commence a civil action against the Respondent in the Superior Court for the judicial district in which the discriminatory practice is alleged to have occurred, in which the Respondent transacts business or in which the Complainant resides. If this action involves a state agency or official, it may be brought in the Superior Court for the judicial district of Hartford.

A copy of any civil action must be served on the Commission by email at ROJ@ct.gov or, if you do not have access to email, at 25 Sigourney Street, Hartford, CT 06106 at the same time all other parties are served. **THE COMMISSION MUST BE SERVED BECAUSE IT HAS A RIGHT TO INTERVENE IN ANY ACTION BASED ON A RELEASE OF JURISDICTION.**

The Complainant must bring an action in Superior Court within 90 days of receipt of this release and within two years of the date of filing the complaint with the Commission unless circumstances tolling the statute of limitations are present.

DATE: October 30, 2015



Tanya A. Hughes, Executive Director

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